

Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING AMENDMENTS TO THE LOCAL RULES OF PRACTICE FOR THE 43rd JUDICIAL CIRCUIT, BARREN AND METCALFE, CIRCUIT COURTS

Upon recommendation of the Circuit Judge of the 43rd Judicial Circuit, Barren and Metcalfe Circuit Courts, and being otherwise sufficiently advised,

The amendment to the local Court Practice and Procedure Rules for the Barren and Metcalfe Circuit Courts which changes the dates of the Metcalfe County Rule Days to the second and fourth Tuesdays of each month effective July 1, 2010, is hereby approved.

This order shall be effective as of the date of this Order, and shall remain in effect until further orders of this court.

Entered this the 8th day of June 2010.


CHIEF JUSTICE

COURT PRACTICE and PROCEDURE RULES

for the

FORTY-THIRD JUDICIAL CIRCUIT
BARREN and METCALFE COUNTIES
DIVISION I

EFFECTIVE JULY 1, 2007,
AMENDMENTS AS TO METCALFE COUNTY
RULE DAY EFFECTIVE JULY 1, 2010

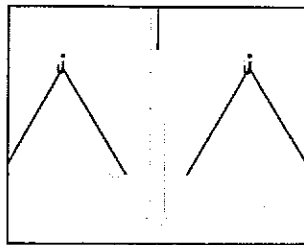


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RULE 1 - INTRODUCTION AND EFFECTIVE DATE

1.1 These Court Practice and Procedure Rules shall govern civil and criminal proceedings in the 43rd Judicial Circuit/Division I unless they conflict with any law of the United States or Commonwealth of Kentucky, at any time legally adopted, in which event any such statute, law, rule, or order shall at all times prevail. All local court rules presently in effect in the 43rd Judicial Circuit/Division I are hereby repealed.

1.2 These rules shall become effective on July 1, 2007, subject to approval by the Chief Justice of Kentucky prior to that date. The amendment as to Metcalfe County Rule Day is effective July 1, 2010.

1.3 These rules may be cited "LR 43 Rule".

RULE 2 - MOTIONS AND MOTION DOCKET

2.1 Except for legal holidays, and unless otherwise ordered by the Court, the Motion days of the Circuit Court shall be as follows:

BARREN CIRCUIT COURT - Every Monday:

9:00 A.M. Civil Motion Hour
10:00 A.M. Criminal Arraignments/Motions
1:00 P.M. Criminal Sentencing/Motions
3:00 P.M. Criminal Pretrials/Motions

METCALFE CIRCUIT COURT - Every Second and Fourth Tuesdays

9:00 A.M. Both Civil and Criminal Matters

2.2 The Circuit Clerk of each county shall keep a Motion Docket, and shall docket in order all Motions assigned for hearing.

2.3 All Motions, civil and criminal, except ex parte, to be heard at motion hour on the appropriate motion day shall be filed with the clerk of that county (the original motion)

and served on opposing counsel by delivery no later than closing time in the Clerk's Office one week immediately preceding the Rule Day upon which the Motion is to be heard. If service is by mail, an additional three (3) days notice shall be required.

2.4 Any cancellation of motions or hearings shall be made by the filing party directly to the Circuit Judge and must be by agreement of all parties.

2.5 Parties may fax motions to the appropriate Circuit Clerk and/or Court prior to the hearing date, but the faxed motions shall not be recognized by the Court until the original is received and entered in the record by the appropriate Circuit Clerk.

RULE 3 - DISCOVERY

3.1 No depositions shall be taken on any Saturday, Sunday or Holiday except upon prior agreement by opposing counsel.

3.2 Without prior permission of the Court to the contrary, each party is limited to a total of 30 (including subparts) interrogatories or requests for admissions.

RULE 4 - APPEARANCES BY COUNSEL

4.1 Forthwith, upon being retained, counsel shall file a written entry of appearance, unless counsel's entry of appearance is apparent from pleadings filed.

4.2 On pleadings and in their entry of appearance, counsel shall set forth their office address, mailing address, telephone number, fax number and email address.

4.3 Once having entered an appearance, counsel shall remain of record, unless relieved of responsibilities by the Court upon written motion and notice (with copy of said motion served upon the client), until expiration of the time for filing a notice of appeal after the entry of Final Judgment or Order.

4.4 Unless counsel specifies otherwise, an entry of appearance is considered to be for all purposes; an entry of appearance for a limited purpose shall specify the limited nature of counsel's representation of the client.

RULE 5 - ENTRY OF ORDERS & JUDGMENTS

5.1 All proposed Orders (except Ex Parte Orders) and Judgments of the Court shall at the request of the Court, be prepared by counsel in whose favor the Order or Judgment is rendered and such proposed Orders or Judgments shall be submitted to opposing counsel. The name of opposing counsel shall be signed at the bottom of the Order with the words "approved as to form", along with the name of the attorney preparing the Order or Judgment.

5.2 If such Order or Judgment is not satisfactory to opposing counsel, the opposing counsel shall immediately make the party's objections known to the Court and present the party's version of the Order or Judgment.

5.3 If opposing counsel refuses to sign "approved as to form" and does not promptly make an objection known to the Court, the preparer shall directly submit the Order to the Court with an appropriate notation.

RULE 6 – MEDIATION

6.1 On motion of any party in a civil matter or upon its own motion the Court may order that the parties attempt a resolution through mediation.

6.2 The parties shall agree on the time and place and upon selection of a mediator and its costs. If the parties are unable to agree, the Court shall establish all terms of mediation and payment of costs.

6.3 Mediation shall be considered settlement negotiations for the purpose of KRE 408.

RULE 7 - JURY TRIALS

7.1 Jury trials in the Barren and Metcalfe Circuit Courts shall commence PROMPTLY at 9:00 a.m.

7.2 Attorneys shall meet in chambers at 8:00 a.m. to discuss preliminary matters and motions.

RULE 8 - ASSIGNMENT OF JURY CASES: CIVIL

8.1 Upon motion to set for trial, the Court shall schedule a trial date if the case is reasonably ready for trial. A Pre-trial Compliance Order shall be entered by the Court directing the parties to furnish to the Court and each other at least one week prior to trial:

1. Kind of Action
2. Stipulations
3. Statement of disputed issues with citation of authorities.
4. State that discovery is completed, or if not completed, the probable completion date - not less than two weeks before trial.
5. List of expected witnesses and brief summary of their testimony.
6. Separate list of expert witnesses and brief summary of their testimony.
7. A list of marked exhibits.
8. List of all special damages and supporting documents.
9. Proposed Jury Instructions.

8.2 Except for good cause shown, deviations from the Pre-Trial compliance statements shall not be allowed to the disadvantage of opposing parties.

8.3 All attorneys should examine their files prior to trial to insure that all interrogatories and requests for admission have been answered and updated. Failure to file a pre-trial compliance or furnish discovery material required by the civil rules shall result in sanctions.

RULE 9 - SETTLEMENT OF CASES

9.1 Parties shall notify the Court and the Clerk prior to 3:00 p.m. the day before the case is scheduled for trial if they settle a case, so jurors will not have to be summoned.

RULE 10 - ASSIGNMENT OF JURY CASES: CRIMINAL

- 10.1 At arraignment, all cases shall be set for a Pre-trial Conference.
- 10.2 A Discovery/Reciprocal Discovery Order shall be entered at arraignment.
- 10.3 The Commonwealth and the Defense shall work toward a resolution of the case to occur at the Pre-trial Conference.
- 10.4 Except for good cause shown no plea shall be accepted by the Court after the final Pre-trial Conference.
- 10.5 If a jury has reported, no plea shall be accepted on the day of trial.

AUTHORIZATION

These rules are adopted pursuant to the authority granted by Supreme Court Rule 1.040 and they shall apply with full force and effect to all actions filed or pending after July 1, 2007, subject to approval by the Chief Justice of the Commonwealth of Kentucky. The amendment as to Metcalfe County Rule Day is effective July 1, 2010.

Respectfully submitted,



Phil Patton
Circuit Judge

